Buildings near dangerous and noxious Trades as regards Health—Distance from Buildings—New Businesses—Prohibition after Thirty Years—Fifty Pounds Penalty and Costs—Distress or Imprisonment.

53. And now, for the purpose of making provision concerning businesses offensive or noxious, be it enacted, with regard to the following trades or businesses; that is to say, blood-boiler, bone-boiler, fellmonger, slaughterer of cattle, sheep or horses, soap-boiler, tallow-melter, tripe-boiler, and any other business offensive or noxious, so far as relates to the erection of buildings in the neighbourhood of any such business, and so far as relates to the carrying on of any such business in the neighbourhood of any public way, or of any new buildings of the first or dwelling-house class, that it shall not be lawful hereafter to erect any buildings of the first or dwelling-house class nearer than *fifty* feet to any building which shall be in use for any such offensive or noxious business; and that it shall not be lawful for any person to establish or newly carry on any such business, either in any building or vault or in the open air, at a less distance than *forty* feet from any public way, or than *fifty* feet from any other such buildings of the first or dwelling-house class; and that if any such business be now carried on in any situation within such distances, then, from the expiration of the period of thirty years next after the passing of this Act, it shall cease to be lawful to continue to carry on such business in such situation; and that if any person erect any building in the neighbourhood of any such business, contrary to this Act, then, on conviction thereof before two justices, he shall forfeit the sum of *fifty* pounds; or if any person establish anew any such business, or carry on any such business contrary to this Act, then, on conviction thereof before two justices, such person is hereby made liable to forfeit for every day during which such building shall remain near to such dangerous business, or during which such business shall be carried on, a sum not exceeding *fifty* pounds, as the said justices shall determine; and that it shall be lawful for the justices also to award to the prosecutor such costs as shall be deemed reasonable; and that if the offender either fail or refuse to pay such penalty and costs immediately after such conviction, then they may be levied by distress of the goods and chattels of the person convicted; or if there be no such distress, then such person shall be committed to the common gaol or house of correction for any time not exceeding six months, at the discretion of such justices, and that by warrant under the hands and seals of two or more justices of the peace.

Use of Means to mitigate Noxiousness of Trades—Adoption of Means to mitigate after Conviction.

54. Provided always, and be it enacted, with regard to any such offensive or noxious business, whether such trade or business be now carried on at a less distance than *forty* feet from any public way, or than *fifty* feet from any other building, or be hereafter carried on at a greater distance, yet so as to cause danger or annoyance, so far as relates to the mitigation of any penalty or punishment for unlawfully carrying on thereof, that if any party charged with carrying on such business shew that in carrying on such business all the means then known to be available for mitigating the effect of such business in any such respect have been adopted, then it shall be lawful for such justices to receive evidence thereof, and according to such evidence to mitigate the penalty as to them shall seem fit: provided further, with regard to such offensive or noxious business, so far as relates to the adoption of means to mitigate the injurious effects thereof, that if it shall appear to such justices that the party carrying on any such business shall have made due endeavours to carry on the same with a view to mitigate so far as practicable the injurious effects thereof, but that the means adopted all or the best means available for the purpose, yet it shall be lawful for such justices assembled, and they are hereby empowered, to suspend the execution of their order or determination, upon condition that, within a reasonable time to be named, the party convicted do adopt such other or better means as to the said court shall seem fit, or before passing final sentence and without consulting the prosecutor, to make such order touching the carrying on of such business as shall be by the said court thought expedient for preventing the nuisance in future.

Connection and Appeal as to certain Trades not specified—Recognizances—Sessions—Proceedings.

55. And be it enacted, with regard to any business not hereinbefore enumerated by name as offensive, noxious or dangerous, or which shall not have been adjudged by any of her Majesty's superior courts of law at Westminster to be a nuisance, and with regard to any building erected or continued within any such distance as aforesaid from any such business dangerous, noxious or offensive, so far as relates to a conviction in respect of any such business, and to an appeal from such conviction, that if any person be dissatisfied with the decision of such justices, and if, within two days after such decision, notice be given by or on behalf of such person of his intention to appeal, and if he enter into recognizance to the party appealed against, with two sufficient securities conditioned to try such appeal, and to abide the order of the court, and pay to the party appealed against, such costs (if any) as shall be awarded against him, then it shall be lawful for such party so dissatisfied to appeal against such conviction to the justices of the peace at their general quarter sessions of the peace, to be holden within four months after such conviction, for the place in which such premises shall be situate; and that if the premises be situate within the city of London, and liberties thereof, then the appeal must be to the quarter sessions thereof, or if the premises be situate in the counties of Westminster, Kent, or Surrey, or in the city and liberties of Westminster, or in the liberties of her Majesty's Tower of London, then to the quarter sessions thereof respectively, as the case shall be; and that if, within the above-mentioned period, such appellant shall have entered into such recognizance as herein required, then it shall be lawful for such justices, and they are hereby empowered, to proceed to hear and examine, on oath, into the causes and matters of such appeal (which oath they are hereby empowered to administer), and to determine the same, and to award such costs to be paid by the said parties as they think proper; and the order, judgment, and determination of the said justices in their respective sessions shall be binding and conclusive upon all parties.

Appeals to Quarter Sessions for Surrey and Kent—To Sessions at Southwark—To Sessions at Greenwich—Further Meetings—Adjournments.

56. And be it enacted, with regard to any appeal in respect of a conviction for carrying on any such dangerous, offensive, or noxious business, so far as relates to the place where such appeal is to be heard, that if the appeal be to the general quarter sessions of the peace for the county of Surrey or the county of Kent, then the jury (if any) to be impannelled, in pursuance of this Act, and all parties required to attend the quarter sessions for the said counties pursuant to such application, shall be impannelled and required to attend at some general or special adjournment of the said quarter sessions to be held within six weeks next after the original sessions; and that if the matter relate to the county of Surrey, then such adjournment shall be to some convenient place in the borough of Southwark in the said county; and that if the matter relate to the county of Kent, then such adjournment shall be to some convenient place in the borough of Greenwich in the said county; and such times and places shall be appointed by the justices of the said counties respectively assembled at such original sessions; and that, from time to time, every further meeting of the said sessions, for any thing to be done upon such application, shall be appointed at or within the space of three weeks from the last meeting: and that, from time to time, it shall be lawful for the justices of the peace for the said counties of Surrey and Kent, or any two of them respectively, and they respectively are hereby empowered and required to make such adjournment and hold such sessions as there shall be occasion.

Common Law and Statutory Remedies not affected.

57. Provided always, and be it declared, with regard to any business which is contrary to any existing Act of Parliament, or otherwise contrary to law, so far as relates to the operation of this Act in that behalf, that, notwithstanding any thing in this Act contained, this Act shall not be deemed to authorize any person to carry on any such business either within such limits or otherwise, or any business which it is unlawful to carry on, within any limits or in any manner contrary to any public, local or private Act of Parliament, or otherwise contrary to law; nor to affect, abridge or restrain the right, the duty or the power of any person, whether private person or public officer, to prosecute, either civilly or criminally, any person who shall carry on, within the limits of this Act, any offensive, noxious or dangerous business.

Regulation or Removal of Trades deemed Nuisances by Purchase—Memorial to Queen in Council—Order for Removal—Compensation—4 Vict. c. —Unlawful to continue such Trades after Purchase.

58. And further, for the regulation or removal of any offensive, noxious or dangerous business now carried on; be it enacted, with regard to any such business, so far as relates to the purchase thereof or of the premises wherein it shall be carried on, that if two-thirds in number of the inhabitant householders of any parish or place in which such business shall be carried on, present a memorial to her Majesty in Council, praying the removal of such business from that place or neighbourhood, and thereby engaging to provide compensation to the persons carrying on the same, either at the expense of the memorialists, or by means of a rate to be levied on the inhabitants of the said parish or place, or such part thereof as may be affected by such business, then it shall be lawful for her Majesty to refer the matter to the Lords of the Committee of Privy Council for Trade, to consider the character of such business, whether it be offensive, noxious or dangerous; and if it appear to be so, and that there are no means of rendering it otherwise by the adoption of methods available, without unreasonable sacrifice on the part of the person by whom it is carried on, then it shall be lawful for her Majesty, by Order in Council, to direct that the removal of such business may be purchased, either at the expense of the memorialists or by means of a rate, as to her Majesty shall seem fit; and also to direct the sheriff of the county or other proper person in the place or liberty in which such business is carried on, to summon a jury according to the provisions of an Act made and passed in the fourth year of the reign of her present Majesty, intituled, "An Act to enable her Majesty's Commissioners of Woods to make a new Street from Coventry-street to Long acre, and for other Improvements in the Metropolis," to determine what compensation shall be paid to the party carrying on such business for the removal thereof, and to the owner [illegible] such premises, or to such jury small or great, and judgment thereupon, and [illegible] of such place or [illegible]

We think no person, who has recently or within twenty years set up any such noxious or dangerous establishment, should virtually be allowed to injure neighbouring property and estates, by depriving their owners of their undoubted and, as we imagine, indefeasible right to build and dwell in peace and health on their own freeholds. We think no such dangerous nuisances ought to remain within the verge of habitable property, but should alone be suffered to exist on detached estates, the confines of which are sufficiently remote from the danger and nuisance to prevent the public and all neighbours and neighbouring property from being injured or annoyed.

These endeavours "*to mitigate the injurious effects*" will come too late after the explosion of the remaining premises where fire-works are made or sold, which have not already exploded and destroyed their inmates, and the neighbouring buildings and their inmates. If any "*vested rights*" prevent the instant removal of these horrible and culpable nuisances, they ought at once to be bought up at the public expense, and all such abominations be immediately banished to desert spots.

We think in a "Building-Act" which is to be general, and is also intended to be lasting, the provisions of the Act referred to ought to be copied [illegible] and annoyance of extra- [illegible] become existence.